Appendix A

Conditions Proposed for the Verizon/SpectrumCo/Cox Transactions

Small Cells/Wi-Fi/Seamless Connectivity

- Prohibit discriminatory or proprietary technical standards for hand-off between wireless
 and wireline networks, data sharing, content storage and access to competitive networks
 to combat the ability to the Applicants to block "access to integrated and proprietary
 wireline-wireless handoff technology that will be uniquely controlled by the
 Applicants."
- Interpret WiFi roaming as a "mobile data service" that is "being provided for a profit" under the Data Roaming Order. Data roaming obligations would extend to cable companies' WiFi network, which will "serve to mitigate the concern…that the cable companies will provide exclusive or preferential access to Verizon as a result of the cooperative Commercial Agreements."
 - Arrangements between Verizon and the cable companies with respect to Cable WiFi hotspots "would serve as a benchmark of the 'commercially reasonable' arrangements to which other wireless companies would be entitled."
- Require that cable companies "offer their WiFi offload roaming on CableWiFi to all
 requesting parties at commercially reasonable rates, terms and conditions" and with a
 prohibition on "deny[ing] access to WiFi offload roaming by making device
 authentication, network testing or bill file transfers overly complex so as to frustrate the
 end-user's access to seamless roaming or otherwise delay the launch of these data
 roaming services."³
- Require that any WiFi technologies or protocols developed by the JOE be made available to all third-parties at nondiscriminatory rates, terms, and conditions.⁴
- Prohibition on cable companies operating WiFi networks from imposing any restrictions to access by wireless subscribers which are not uniformly imposed on customers of all wireless carriers to prohibit discriminatory access and authentication procedures.⁵

¹ See Letter from John T. Komeiji, Senior Vice President and General Counsel of Rural Telecommunications Group, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-4 (July 20, 2012) (hereinafter Hawaiian Telecom letter); Letter from Micah M. Caldwell, Vice President, Regulatory Affairs of Independent Telephone & Telecommunications Alliance, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-4 (July 10, 2012) (hereinafter ITTA letter).

² See Comments of MetroPCS Communications, WT Docket 12-4 (July 10, 2012) (hereinafter MetroPCS comments).

³ See Letter from Caressa D. Bennet, General Counsel of Independent Telephone & Telecommunications Alliance, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-4 (July 19, 2012).

⁴ See Letter from William B. Wilhelm, Counsel for Vonage, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-4 (July 16, 2012) (hereinafter Vonage letter); Letter from Antoinette Cook Bush, Counsel to Sprint Nextel, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-4 (July 19, 2012) (hereinafter Sprint Nextel letter).

⁵ See Sprint Nextel letter.

- Prohibit cable companies from discriminating in the cost or speed of handling traffic on their WiFi networks based on customer's choice of wireless carrier. 6
- Prohibit cable companies from restricting wireless carriers from access to existing cable facilities for the installation and attachment of microcells.⁷

Special Access/Backhaul

- Prohibit preferential backhaul arrangements among the applicants to address the "potential to impair competition in the wireline backhaul market and reduce investment in wireline broadband networks."
- All backhaul agreements among the partners should be made public and subject to prior review and approval by the Commission.⁹
- Prohibit preferential backhaul arrangements among the Applicants. 10
- Require cable companies and the Verizon ILEC to provide backhaul services to wireless carriers on a non-discriminatory basis, with costs proportional to the requested capacity of a line.¹¹

Resale Agreements

- Prohibit exclusivity in broadband retail offerings by Verizon Wireless. 12
- Prohibit the cable applicants from discriminatory or exclusionary sales practices for cable advertising. ¹³
- Prohibit Applicants from cross-marketing their services within the Verizon footprint. 14

Joint Operating Entity

- Require that JOE-developed products not be used to unreasonably discriminate against a consumer's ability to obtain access to or use broadband facilities. ¹⁵
- Require the Applicants to make services "each of them provides to each other and the intellectual property developed under the Agreements" available on a nonexclusive basis. ¹⁶

⁶ *Id*.

⁷ *Id*.

⁸ See Hawaiian Telecom letter.

⁹ See Letter from Genevieve Morelli, President of Independent Telephone & Telecommunications Alliance, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-4 (July 18, 2012).

¹⁰ See ITTA letter.

¹¹ See Sprint Nextel letter; Hawaiian Telecom letter.

¹² See Hawaiian Telecom letter.

¹³ See Hawaiian Telecom letter: ITTA letter.

¹⁴ See Letter from Monica S. Desai, Counsel for Communications Workers of America, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-4 (May 7, 2012) (hereinafter CWA letter).

¹⁵ See Vonage letter.

- Services and intellectual property would be available to all requesting telecommunications carriers, cable service providers, and broadband internet service providers on the same terms and conditions.
- Require that any patents developed in the JOE be offered to third parties on FRAND or RAND terms.¹⁷
 - o Require that JOE-developed technologies be available to prospective licensees with a cash-only payment option. 18
 - Prohibit the JOE from seeking injunctive relief against prospective licensees that fail to agree on licensing terms.¹⁹
- Impose a finite term of 3-4 years on the JOE Agreement. ²⁰

Programming/Carriage

- Prohibit discrimination in access to video content controlled by the Applicants to respond to the applicants' (many vertically integrated broadband and content providers) "potential to stifle competitive alternatives for delivery of video and other content." ²¹
- Prohibit discrimination in access to video content controlled by any of the Applicants to address the threat to independent content providers ability to gain access to potentially proprietary platforms of the Applicants.²²
- Require Applicants to certify that they "will not discuss programming or other media related activities and content of nonparticipants in [sic] a nondiscriminatory basis." ²³

Over the Top Video Content/Discriminatory Treatment of Data

- Prohibit the Applicants from enforcing data usage limits on customers using unaffiliated service providers unless the same data usage limits apply to customers that take the same service from Applicants to respond to Applicants' incentive to stifle competitive alternatives for delivery of video and other content.²⁴
- Application of the "same net neutrality rules to wired and wireless broadband provided by the parties," given the potential for discriminatory conduct, including discriminatory

¹⁶ See CWA letter.

¹⁷ See Letter from Jodie Griffin, Public Knowledge, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-4 (August 2, 2012) (hereinafter Public Knowledge letter); Letter from Ellen Stutzman, Director of Research & Public Policy, Writers Guild of America West, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-4 (July 12, 2012) (hereinafter WGAW letter).

¹⁸ See Public Knowledge letter.

¹⁹ *Id*.

²⁰ *Id*.

²¹ See Hawaiian Telecom letter.

²² See ITTA letter.

²³ See WGAW letter.

²⁴ See Hawaiian Telecom letter; ITTA letter.

routing practices that could increase latency and result in a qualitative degradation of over-the-top apps and services (for example, by using "public versus price peering points for the exchange of data traffic" carrying non-affiliated services, "scenic routing of data traffic over nodes with increased latency or by selecting routes that utilize a greater number of numbers," or removing QOS tags that could alter priority levels of non-affiliated traffic) and discriminatory exemptions for non-affiliated traffic to otherwise-applicable data caps.²⁵

- This would include an express prohibition on the classification by Verizon
 Wireless and the cable companies of their services as "managed services" under
 the exception to the existing net neutrality provisions.
- Extend full wireline net neutrality conditions to the transferred spectrum and all Verizon spectrum. ²⁶
- Any proposed content contracts, video agreements, traffic-related contracts, and retail service agreements among the Applicants should be made public and subject to prior review and approval by the Commission.²⁷
- Prohibit Applicants from treating unaffiliated content differently to prevent the MSOs and Verizon from using their control of the wireless and wireline platforms to unfairly disadvantage competitors in the video market.²⁸

Other Proposed Conditions

- Require the Applicants to follow the same porting processes that are required of telecommunications carriers under Part 64 of the Commission's rules.²⁹
- Divestiture by cable companies of their interests in Clearwire Corporation within six months to prevent them from being able to "hamper further development of Clearwire's competing network and services, both by impeding new initiatives and by refusing to make additional investments."³⁰
- Require Verizon Wireless to offer roaming "to other carriers at rates no less favorable than the resale rates offered to the cable companies in the disclosed Commercial Agreements," in light of the fact that the "proposed transaction will remove an important constraint on Verizon Wireless's ability to charge super competitive rates for roaming."³¹
- Imposition of a "stringent voice and data roaming condition" on Verizon Wireless, such as "applying the best available reseller rate Verizon is charging any of the Cable

²⁵ See Vonage letter.

²⁶ See WGAW letter.

²⁷ See ITTA letter.

²⁸ See WGAW letter.

²⁹ See Hawaiian Telecom letter; ITTA letter.

³⁰ See Letter from Michael Nilsson, counsel for DIRECTV, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-4 (July 20, 2012) (hereinafter DIRECTV letter).

³¹ See MetroPCS comments.

Companies to any requesting carrier," given the loss of the cable companies as "potential AWS band LTE roaming partners." 32

- Condition approval on divestiture of additional AWS spectrum and ensured-sale of Verizon's 700 MHz spectrum, with an interoperability condition attached to the acquisition of any of Verizon's divested 700 MHz A or B Block spectrum.³³
- Require spectrum divested by Verizon Wireless is not simply bought by AT&T.³⁴
- Imposition of an interoperability condition on AWS spectrum acquired by Verizon to counter Verizon's "ability and incentive to create a boutique LTE band class consisting of the AWS B and F Blocks." ³⁵
- Prohibit Verizon Wireless and the cable companies from "conditioning their provision of broadband service on the purchase of any other service, including but not limited to, voice telephony service" i.e. no tying permitted (which would require Verizon to continue offering stand-alone DSL). ³⁶
- Require Verizon Communications to continue to provide standalone DSL within its service territories.³⁷
- Require Verizon to continue to offer FiOS, expand in-region deployment to cover at least 95% of residential living units and households within Verizon's in-region territory, and require that "a certain percentage of incremental deployment after the Merger Closing will be to rural and low income living units, with timetables, data reporting, and penalties for non-compliance." 38
- To prevent Verizon from warehousing the spectrum, require Verizon to meet a "tight schedule for deployment, similar to that adopted for the upper A and B blocks of the 700 MHz auction" providing signal coverage and offering service over at least 35% of the geographic area within four years of the license transfer and 70% by the end of the license terms.³⁹
 - Verizon would also be subject to a "use it or share it" obligation, making "underdeveloped" spectrum available for opportunistic use or available on secondary markets at reasonable rates.

³⁸ See CWA letter.

³² See Letter from Michael Lazarus, counsel for RCA, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-4 (July 11, 2012) (hereinafter RCA letter); Comments of Public Knowledge, WT Docket 12-4 (July 10, 2012) (hereinafter Public Knowledge comments); Petition to Deny of Public Knowledge et al., WT Docket No. 12-4 (Feb. 21, 2012) (hereinafter Petition to Deny).

³³ See RCA letter.

³⁴ See Public Knowledge letter.

³⁵ *Id*; *see* Petition to Deny.

³⁶ See Vonage letter.

³⁷ *Id*.

³⁹ See Petition to Deny; Public Knowledge comments.

Permit unlicensed use of Verizon's spectrum until it begins deployment, with an obligation on the part of Verizon to "notify one or more FCC-certified TV Bands Database managers in advance of the commercial operation of a base station or other transmitter in each discrete geographic area as it builds out.⁴⁰

⁴⁰ See Petition to Deny.